

AMENDED IN SENATE JUNE 26, 2013

AMENDED IN SENATE JUNE 11, 2013

AMENDED IN SENATE MAY 29, 2013

AMENDED IN ASSEMBLY MARCH 21, 2013

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

## ASSEMBLY BILL

**No. 279**

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**Introduced by Assembly Member Dickinson**

February 11, 2013

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An act to amend, repeal, and add Sections 53601.8 and 53635.8 of the Government Code, relating to local government.

### LEGISLATIVE COUNSEL'S DIGEST

AB 279, as amended, Dickinson. Financial affairs.

Existing law prescribes the instruments in, and criteria by which, a local agency, as defined, may invest and deposit its funds, including its surplus funds. Existing law authorizes a local agency to invest in ~~specified~~ certificates of deposit *provided that they do not exceed 30% of the agency's funds that may be invested for this purpose, as specified.*

This bill would, until January 1, 2017, remove the term “certificates of deposit” and instead authorize a local agency to invest in deposits, as specified, and limit the amount of its funds that an agency may place with any one private sector entity that assists in the placement of deposits with one or more commercial banks, savings banks, savings and loan associations, or credit unions that are located in the United States. *The bill would prescribe requirements for the financial institutions that a private sector entity is authorized to use.*

Vote: majority. Appropriation: no. Fiscal committee: no.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

- 1 SECTION 1. Section 53601.8 of the Government Code is  
2 amended to read:
- 3 53601.8. Notwithstanding Section 53601 or any other provision  
4 of this code, a local agency that has the authority under law to  
5 invest funds, at its discretion, may invest a portion of its surplus  
6 funds in deposits at a commercial bank, savings bank, savings and  
7 loan association, or credit union that uses a private sector entity  
8 that assists in the placement of deposits. The following conditions  
9 shall apply:
- 10 (a) The local agency shall choose a nationally or state chartered  
11 commercial bank, savings bank, savings and loan association, or  
12 credit union in this state to invest the funds, which shall be known  
13 as the “selected” depository institution.
- 14 (b) The selected depository institution may ~~submit the funds to~~  
15 ~~a private sector entity that assists in the placement of deposits~~ *use*  
16 *a private sector entity to help place local agency deposits* with  
17 one or more commercial banks, savings banks, savings and loan  
18 associations, or credit unions that are located in the United States;  
19 ~~for the local agency’s account and are within the network used by~~  
20 ~~the private sector entity for this purpose.~~
- 21 ~~(c) The full amount of the deposit placed pursuant to subdivision~~  
22 ~~(b) by the private sector entity and the interest that may be accrued~~  
23 ~~for each such deposit shall at all times be insured by the Federal~~  
24 ~~Deposit Insurance Corporation or the National Credit Union~~  
25 ~~Administration.~~
- 26 (c) *Any private sector entity used by a selected depository*  
27 *institution to help place its local agency deposits shall maintain*  
28 *policies and procedures requiring both of the following:*
- 29 (1) *The full amount of each deposit placed pursuant to*  
30 *subdivision (b) and the interest that may accrue on each such*  
31 *deposit shall at all times be insured by the Federal Deposit*  
32 *Insurance Corporation or the National Credit Union*  
33 *Administration.*
- 34 (2) *Every depository institution where funds are placed shall*  
35 *be capitalized at a level that is sufficient, and be otherwise eligible,*

1 *to receive such deposits pursuant to regulations of the Federal*  
2 *Deposit Insurance Corporation or the National Credit Union*  
3 *Administration, as applicable.*

4 (d) The selected depository institution shall serve as a custodian  
5 for each such deposit.

6 (e) On the same date that the local agency's funds are placed  
7 pursuant to subdivision (b) by the private sector entity, the selected  
8 depository institution shall receive an amount of insured deposits  
9 from other financial institutions that, in total, are equal to, or greater  
10 than, the full amount of the principal that the local agency initially  
11 deposited through the selected depository institution pursuant to  
12 subdivision (b).

13 (f) Notwithstanding subdivisions (a) to (e), inclusive, a credit  
14 union shall not act as a selected depository institution under this  
15 section or Section 53635.8 unless both of the following conditions  
16 are satisfied:

17 (1) The credit union offers federal depository insurance through  
18 the National Credit Union Administration.

19 (2) The credit union is in possession of written guidance or other  
20 written communication from the National Credit Union  
21 Administration authorizing participation of federally insured credit  
22 unions in one or more deposit placement services and affirming  
23 that the moneys held by those credit unions while participating in  
24 a deposit placement service will at all times be insured by the  
25 federal government.

26 (g) It is the intent of the Legislature that this section shall not  
27 restrict competition among private sector entities that provide  
28 placement services pursuant to this section.

29 (h) The deposits placed pursuant to this section and Section  
30 53635.8 shall not, in total, exceed 30 percent of the agency's funds  
31 that may be invested for this purpose.

32 (i) Purchases of certificates of deposit pursuant to this section,  
33 Section 53635.8, and subdivision (i) of Section 53601 shall not,  
34 in total, exceed 30 percent of the agency's funds that may be  
35 invested for this purpose.

36 (j) Excluding purchases of certificates of deposit pursuant to  
37 this section, no more than 10 percent of the agency's funds that  
38 may be invested for this purpose may be submitted, pursuant to  
39 subdivision (b), to any one private sector entity that assists in the  
40 placement of deposits with one or more commercial banks, savings

1 banks, savings and loan associations, or credit unions that are  
2 located in the United States, for the local agency's account.

3 (k) This section shall remain in effect only until January 1, 2017,  
4 and as of that date is repealed, unless a later enacted statute, that  
5 is enacted before January 1, 2017, deletes or extends that date.

6 SEC. 2. Section 53601.8 is added to the Government Code, to  
7 read:

8 53601.8. Notwithstanding Section 53601 or any other provision  
9 of this code, a local agency that has the authority under law to  
10 invest funds may, at its discretion, invest a portion of its surplus  
11 funds in certificates of deposit at a commercial bank, savings bank,  
12 savings and loan association, or credit union that uses a private  
13 sector entity that assists in the placement of certificates of deposit,  
14 provided that the purchases of certificates of deposit pursuant to  
15 this section, Section 53635.8, and subdivision (i) of Section 53601  
16 do not, in total, exceed 30 percent of the agency's funds that may  
17 be invested for this purpose. The following conditions shall apply:

18 (a) The local agency shall choose a nationally or state-chartered  
19 commercial bank, savings bank, savings and loan association, or  
20 credit union in this state to invest the funds, which shall be known  
21 as the "selected" depository institution.

22 (b) The selected depository institution may submit the funds to  
23 a private sector entity that assists in the placement of certificates  
24 of deposit with one or more commercial banks, savings banks,  
25 savings and loan associations, or credit unions that are located in  
26 the United States for the local agency's account.

27 (c) The full amount of the principal and the interest that may  
28 be accrued during the maximum term of each certificate of deposit  
29 shall at all times be insured by the Federal Deposit Insurance  
30 Corporation or the National Credit Union Administration.

31 (d) The selected depository institution shall serve as a custodian  
32 for each certificate of deposit that is issued with the placement  
33 service for the local agency's account.

34 (e) At the same time the local agency's funds are deposited and  
35 the certificates of deposit are issued, the selected depository  
36 institution shall receive an amount of deposits from other  
37 commercial banks, savings banks, savings and loan associations,  
38 or credit unions that, in total, are equal to, or greater than, the full  
39 amount of the principal that the local agency initially deposited  
40 through the selected depository institution for investment.

1 (f) Notwithstanding subdivisions (a) to (e), inclusive, no credit  
2 union may act as a selected depository institution under this section  
3 or Section 53635.8 unless both of the following conditions are  
4 satisfied:

5 (1) The credit union offers federal depository insurance through  
6 the National Credit Union Administration.

7 (2) The credit union is in possession of written guidance or other  
8 written communication from the National Credit Union  
9 Administration authorizing participation of federally insured credit  
10 unions in one or more certificate of deposit placement services  
11 and affirming that the moneys held by those credit unions while  
12 participating in a deposit placement service will at all times be  
13 insured by the federal government.

14 (g) It is the intent of the Legislature that this section shall not  
15 restrict competition among private sector entities that provide  
16 placement services pursuant to this section.

17 (h) This section shall become operative on January 1, 2017.

18 SEC. 3. Section 53635.8 of the Government Code is amended  
19 to read:

20 53635.8. Notwithstanding Section 53601 or any other provision  
21 of this code, a local agency that has the authority under law to  
22 invest funds, at its discretion, may invest a portion of its surplus  
23 funds in deposits at a commercial bank, savings bank, savings and  
24 loan association, or credit union that uses a private sector entity  
25 that assists in the placement of deposits. The following conditions  
26 shall apply:

27 (a) The local agency shall choose a nationally or state-chartered  
28 commercial bank, savings bank, savings and loan association, or  
29 credit union in this state to invest the funds, which shall be known  
30 as the “selected” depository institution.

31 (b) The selected depository institution may ~~submit the funds to~~  
32 ~~a private sector entity that assists in the placement of deposits with~~  
33 *use a private sector entity to help place local agency deposits with*  
34 *one or more commercial banks, savings banks, savings and loan*  
35 *associations, or credit unions that are located in the United States;*  
36 ~~for the local agency’s account and are within the network used by~~  
37 *the private sector entity for this purpose.*

38 ~~(c) The full amount of the deposit placed pursuant to subdivision~~  
39 ~~(b) by the private sector entity and the interest that may be accrued~~  
40 ~~for each such deposit shall at all times be insured by the Federal~~

1 ~~Deposit Insurance Corporation or the National Credit Union~~  
2 ~~Administration.~~

3 *(c) Any private sector entity used by a selected depository*  
4 *institution to help place its local agency deposits shall maintain*  
5 *policies and procedures requiring both of the following:*

6 *(1) The full amount of each deposit placed pursuant to*  
7 *subdivision (b) and the interest that may accrue on each such*  
8 *deposit shall at all times be insured by the Federal Deposit*  
9 *Insurance Corporation or the National Credit Union*  
10 *Administration.*

11 *(2) Every depository institution where funds are placed shall*  
12 *be capitalized at a level that is sufficient, and be otherwise eligible,*  
13 *to receive such deposits pursuant to regulations of the Federal*  
14 *Deposit Insurance Corporation or the National Credit Union*  
15 *Administration, as applicable.*

16 *(d) The selected depository institution shall serve as a custodian*  
17 *for each such deposit.*

18 *(e) On the same date that the local agency's funds are placed*  
19 *pursuant to subdivision (b) by the private sector entity, the selected*  
20 *depository institution shall receive an amount of insured deposits*  
21 *from other financial institutions that, in total, are equal to, or greater*  
22 *than, the full amount of the principal that the local agency initially*  
23 *deposited through the selected depository institution for investment*  
24 *pursuant to subdivision (b).*

25 *(f) Notwithstanding subdivisions (a) to (e), inclusive, a credit*  
26 *union shall not act as a selected depository institution under this*  
27 *section or Section 53601.8 unless both of the following conditions*  
28 *are satisfied:*

29 *(1) The credit union offers federal depository insurance through*  
30 *the National Credit Union Administration.*

31 *(2) The credit union is in possession of written guidance or other*  
32 *written communication from the National Credit Union*  
33 *Administration authorizing participation of federally insured credit*  
34 *unions in one or more deposit placement services and affirming*  
35 *that the moneys held by those credit unions while participating in*  
36 *a deposit placement service will at all times be insured by the*  
37 *federal government.*

38 *(g) It is the intent of the Legislature that this section shall not*  
39 *restrict competition among private sector entities that provide*  
40 *placement services pursuant to this section.*

1 (h) The deposits placed pursuant to this section and Section  
2 53601.8 shall not, in total, exceed 30 percent of the agency's funds  
3 that may be invested for this purpose.

4 (i) Purchases of certificates of deposit pursuant to this section,  
5 Section 53601.8, and subdivision (i) of Section 53601 shall not,  
6 in total, exceed 30 percent of the agency's funds that may be  
7 invested for this purpose.

8 (j) Excluding purchases of certificates of deposit pursuant to  
9 this section, no more than 10 percent of the agency's funds that  
10 may be invested for this purpose may be submitted, pursuant to  
11 subdivision (b), to any one private sector entity that assists in the  
12 placement of deposits with one or more commercial banks, savings  
13 banks, savings and loan associations, or credit unions that are  
14 located in the United States, for the local agency's account.

15 (k) This section shall remain in effect only until January 1, 2017,  
16 and as of that date is repealed, unless a later enacted statute, that  
17 is enacted before January 1, 2017, deletes or extends that date.

18 SEC. 4. Section 53635.8 is added to the Government Code, to  
19 read:

20 53635.8. Notwithstanding Section 53601 or any other provision  
21 of this code, a local agency that has the authority under law to  
22 invest funds, at its discretion, may invest a portion of its surplus  
23 funds in certificates of deposit at a commercial bank, savings bank,  
24 savings and loan association, or credit union that uses a private  
25 sector entity that assists in the placement of certificates of deposit,  
26 provided that the purchases of certificates of deposit pursuant to  
27 this section, Section 53601.8, and subdivision (i) of Section 53601  
28 do not, in total, exceed 30 percent of the agency's funds that may  
29 be invested for this purpose. The following conditions shall apply:

30 (a) The local agency shall choose a nationally or state-chartered  
31 commercial bank, savings bank, savings and loan association, or  
32 credit union in this state to invest the funds, which shall be known  
33 as the "selected" depository institution.

34 (b) The selected depository institution may submit the funds to  
35 a private sector entity that assists in the placement of certificates  
36 of deposit with one or more commercial banks, savings banks,  
37 savings and loan associations, or credit unions that are located in  
38 the United States, for the local agency's account.

39 (c) The full amount of the principal and the interest that may  
40 be accrued during the maximum term of each certificate of deposit

1 shall at all times be insured by the Federal Deposit Insurance  
2 Corporation or the National Credit Union Administration.

3 (d) The selected depository institution shall serve as a custodian  
4 for each certificate of deposit that is issued with the placement  
5 service for the local agency's account.

6 (e) At the same time the local agency's funds are deposited and  
7 the certificates of deposit are issued, the selected depository  
8 institution shall receive an amount of deposits from other  
9 commercial banks, savings banks, savings and loan associations,  
10 or credit unions that, in total, are equal to, or greater than, the full  
11 amount of the principal that the local agency initially deposited  
12 through the selected depository institution for investment.

13 (f) Notwithstanding subdivisions (a) to (e), inclusive, a credit  
14 union shall not act as a selected depository institution under this  
15 section or Section 53601.8 unless both of the following conditions  
16 are satisfied:

17 (1) The credit union offers federal depository insurance through  
18 the National Credit Union Administration.

19 (2) The credit union is in possession of written guidance or other  
20 written communication from the National Credit Union  
21 Administration authorizing participation of federally insured credit  
22 unions in one or more certificate of deposit placement services  
23 and affirming that the moneys held by those credit unions while  
24 participating in a deposit placement service will at all times be  
25 insured by the federal government.

26 (g) It is the intent of the Legislature that this section shall not  
27 restrict competition among private sector entities that provide  
28 placement services pursuant to this section.

29 (h) This section shall become operative on January 1, 2017.